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EXAMINER

KRAMER, DEVON C

ART UNIT PAPER NUMBER

3683

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/065,471

Filing Date: October 22, 2002

Appellant(s): QUAGLIA ET AL.

Matthew Mietzel
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/7/05.

(1) Real Party in Interest

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A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) *Prior Art of Record*

6,193,024	Heppes et al	02-2001
3,198,294	Stacy	08-1965
4,691,810	Matsuzaki	09-1987

(9) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

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Claims 1, 2, 8 and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6, 193,024 issued to Heppes et al.

Claims 1 and 8 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,198,294 issued to Stacy.

Claims 6 and 13 stand rejected under 35 U.S.C. 103 (a) in view of U.S. Patent No. 6,193,024 issued to Heppes et al. or U.S. Patent No. 3, 198,294 issued to Stacy in view of U.S. Patent No. 4,691,810 issued to Matsuzaki.

(10) Response to Argument

Note that any object has mass and that a mass placed on an object in a system that undergoes vibration, affects the damping properties of that object.

Heppes teaches a back plate (1, 4) having at least one hole (17) formed therein and a tuned mass damper (18) disposed within the hole for damping vibrations associated with the operation of the vehicle disk brake. Applicant argues that member (18) is not a mass damper and merely resists pressure applied by a brake piston or caliper. Note the functionality of the mass of Heppes is inherent to the design of the device. Please note that any mass added to the backplate (1, 4) is going to help dampen the vibrations associated with its operation. Heppes cites plate (1), as being a damping plate. The material strip is added to the damping plate and is able to assist in the damping of vibrations. Applicant further argues that Heppes does not disclose a tuned mass damper having a mass disposed within a hole in the backplate and

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attached to the backplate for damping vibrations associated with operation of the brake assembly. As stated above, mass member (18) acts as a mass damper and is disposed in a hole (17). The purpose of the invention of Heppes is to dampen vibrations associated with the operation of a brake disk and calliper (title and abstract). Appellant further argues that the damping plate (1) of Heppes is separated from the brake lining by base plate (4) and is not attached to the brake lining. As stated in the final action "while not directly attached or in direct contact, clearly these items are connected together." Please note that these items are attached to each other and the claim language does not require the items to be in direct contact. Even if the current claim language overcomes the reference to Heppes with respect to the connection of the backplate and the pad, one could consider the base plate and the damping plate to be the backing plate (1, 4) which would then be attached and in direct contact with the pad.

Stacy teaches a backplate (11) having at least one hole (17) formed therein and a tuned mass damper having a mass (42) disposed within the hole for damping vibrations associated with operation of the disk brake. Appellant argues that Stacy does not disclose a tuned mass damper disposed in a backplate hole for damping vibrations. Please note that the functionality is inherent to the design of Stacy. Element (42, the screw) has a mass and is mounted on a spring member (41). Please note that spring mass members are generally what defines a tuned mass damper. By adjusting the mass tension on the spring, the damping characteristics of the spring mass combination are adjusted. As stated by appellant on page 8 of the brief, the assembly of Stacy is used for damping movement or vibrations of the plate 21, the mass damper (42, 41).

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assists in performing this function. The mass (42) is disposed in a hole portion (figure 7) of a backplate member, the mass (42) and spring (41) damping vibrations and being attached to the backplate. As argued above, the mass (42) is not directly attached or in direct contact with the backplate of Stacy, but claim 8 only requires the mass to be attached to the backplate.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

DK
March 16, 2005

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